

Docket No. 189,059

**ON** November 15, 1994, the Appeals Board heard argument in the respondent's request to review the Preliminary Hearing Order entered by Administrative Law Judge John D. Clark, dated September 12, 1994.

Claimant appeared by and through his attorney, Robert R. Lee of Wichita, Kansas. The respondent, a self insured, appeared by and through its attorney, Scott J. Mann of Hutchinson, Kansas. There were no other appearances.

The Administrative Law Judge granted claimant's request for benefits. The respondent requests the Appeals Board to review the following issues:

- (1) Whether claimant met with personal injury by accident arising out of and in the course of his employment with the respondent.
- (2) Whether claimant provided timely notice as required by K.S.A. 44-520, as amended.

After reviewing the entire record, for purposes of preliminary hearing, the Appeals Board finds as follows:

- (1) Claimant sustained personal injury by accident arising out of and in the course of his employment with the respondent as alleged. Claimant's job duties included flipping large pieces of plastic and would oftentimes strike himself on the shins. Claimant

terminated his employment with the respondent on November 12, 1993, and began looking for other work. During the week after his termination, claimant developed pain in his leg which was ultimately diagnosed as deep venous thrombosis. It is more probably true than not the repetitive striking of the right shin caused, or at the very least contributed to, the venous thrombosis condition. The medical evidence supports this conclusion. Therefore, claimant is entitled workers compensation benefits for this injury and condition.

(2) The respondent argues claimant failed to give notice of his accident within ten (10) days as required by K.S.A. 44-520, as amended. Although there is conflicting testimony, the Appeals Board finds claimant provided notice to the respondent of his shins being struck at work both before and after his termination and within ten (10) days of his last day of work and the last day of striking his shins.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge John D. Clark, dated September 12, 1994, is affirmed in all respects.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of December, 1994.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Robert R. Lee, Wichita, KS  
Scott J. Mann, Hutchinson, KS  
John D. Clark, Administrative Law Judge  
George Gomez, Director